

*lib.*

BEFORE THE POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

COWLITZ COUNTY NATURAL	)	
RESOURCES COUNCIL,	)	
	)	PCHB NO. 92-8
Appellant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	
COWLITZ-WAHKIAKUM	)	
HEALTH DISTRICT,	)	
	)	
Respondent.	)	

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On January 10, 1992, the Board received from the Cowlitz County Natural Resources Council an appeal of the Cowlitz-Wahkiakum Health District's decision permitting Variance #3 of the Mt. Solo Landfill.

Subsequently, on March 11, 1992, the Health District distributed a formal notice of the schedule for a hearing and decision date for the Cowlitz County Natural Resources Council's appeal.

On May 12, 1992, this Board received Cowlitz-Wahkiakum Health District's Motion to Dismiss, Memorandum in Support of Motion to Dismiss, with attached Declarations of Marilyn Sutherland and John Leber, a proposed Order, and the Affidavit of Mailing in regard to this matter.

On May 15, 1992, the Pollution Control Hearings Board mailed the schedule of responses to the Motion to Dismiss, which were due May 28, 1992. That was the date that Cowlitz County Natural Resources Council sent its Memorandum to Reject the Motion to Dismiss.

1           On June 2, 1992, the Cowlitz-Wahkiakum Health District sent by FAX and mail its  
2 Memorandum in Support of Motion to Dismiss.

3           Having considered the record and having deliberated, the Board finds that:

4           RCW 70.95.120 provides that this Board shall have jurisdiction over solid waste  
5 disposal permits only (1) if the local Board of Health denies or suspends a permit and the  
6 applicant/holder requests review by this Board, or (2) if such a permit is granted by the local  
7 Board of Health and if the Department of Ecology requests review by this Board; and,

8           Since the appeal here concerns the granting of a permit, it falls under (2) above, and  
9 the only party that can request review by this Board is the Department of Ecology. Such a  
10 request from DOE has not been filed with the Board.

11           Since this Board is limited in its jurisdiction by the referenced statute, for the Board to  
12 exceed that limitation would be unlawful. Therefore, we have no choice but to

13           ORDER that the appellants herein do not have a statutory right to appeal the granting  
14 of the variance in question and that respondent's Motion to Dismiss is granted, and that this  
15 appeal, PCHB No. 92-8, is DISMISSED.


16           Having reached this conclusion, the Board does not address the other issues raised by  
17 respondent in its Motion to Dismiss.

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DONE this 15th day of June, 1992.

POLLUTION CONTROL HEARINGS BOARD



HAROLD S. ZIMMERMAN, Presiding

  
JUDITH A. BENDOR, Member

  
ANNETTE S. MCGEE, Member

P92-8D